

Register historic district at a site visible from a public place, and

(iii) be issued a building permit prior to installation.

- (3) Masts greater than twelve feet in height used to support satellite dishes, television receiving antennas, or other antennas in non-residential districts shall require a building permit to insure safety of installation and shall not exceed twenty feet in height.

Masts used to support receive-only antennas in residential districts shall not exceed twelve feet in height.

- (4) Microwave dishes shall be of mesh or open grid construction whenever technically feasible and be colored to minimize their visibility.
- (5) Signs shall not be allowed on any antenna.
- (6) Receive-only antennas intended solely for the use of the occupants of the building or residence to which they are accessory shall be permitted when in compliance with the applicable provisions of this ordinance.

#### 73.20.13 Non-Conforming Towers

A telecommunications tower legally erected prior to adoption of these regulations that is damaged or destroyed to an extent of fifty percent (50%) or more of its replacement cost at the time of destruction may be reconstructed on its original site in conformity with the provisions of this ordinance. A building permit to reconstruct the facility shall comply with the then applicable standards, codes, and regulations, and shall be obtained within one hundred eighty (180) days from the date the facility is damaged or destroyed. If no permit is obtained or if the permit expires, the telecommunications facility shall be deemed to be abandoned.

#### 73.20.14 Abandonment

- (1) Any tower that has not been in use for its original telecommunications purpose for a period of one hundred eighty (180) days shall be deemed to be abandoned. The tower owner shall have an additional ninety (90) days to remove an abandoned tower and any accessory structures or to reactivate the tower or to transfer the tower to another owner/operator who reactivates it. Removal of abandoned towers and accessory structures shall be at the owner's expense.
- (2) Each January every tower owner, with the exception of amateur radio operators, shall provide the Building Inspector with a list of all towers owned during the previous twelve months indicating the date of cessation of operation for any inactive towers, the date of dismantling for removed towers, the date of transfer of towers to other owners, and a certification that each standing tower is in compliance with Section 73.20.8 - Structural Design of Towers accompanied by a copy of the annual maintenance inspection report.

73.20.15     Publicly Owned Property

- (1) A tower to be located on land owned by any governmental entity or public agency shall comply with these regulations unless the tower and all antennas thereon are for the exclusive use of the public entity occupying or controlling the property.
- (2) Towers to be located on property owned by the City of Huntsville, other than rights of way, shall be subject to all applicable requirements of the Zoning Ordinance and other city codes.
- (3) Neither towers nor antennas shall be placed in city rights of way without the approval of the Huntsville City Council.

73.20.16     Co-Location

To minimize the adverse visual, aesthetic and environmental impacts associated with the proliferation of towers, co-location of antennas by more than one user on existing or permitted

towers shall take precedence over the construction of new towers. Towers shall be designed to maximize shared use to the extent possible for the type of tower proposed without creating structural instability or electromagnetic interference with other antennas on the tower.

- (1) Subject to Section 73.20.16(2), no new tower shall be permitted unless the applicant demonstrates by sufficient documentary evidence that at least one of the following conditions is applicable:
  - (a) No existing towers or suitable structures are located within the geographic area required to meet applicant's engineering requirements, and no such towers are under consideration for building permits.
  - (b) Existing towers or other structures are not of sufficient height and cannot be reasonably altered to meet applicant's engineering requirements.
  - (c) Existing towers or other structures do not have sufficient structural strength and cannot be reasonably altered to support applicant's proposed antenna and related equipment.
  - (d) The proposed antenna would cause electromagnetic interference with existing antenna(s) on the tower or structure, or the existing antenna(s) would cause interference with the proposed antenna and the interference cannot be prevented at a reasonable cost.
  - (e) The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
  - (f) Co-location would have a more detrimental environmental, aesthetic, or visual impact on the surrounding area than would construction of a new

tower.

- (2) Even if an applicant is able to demonstrate the existence of one of the foregoing conditions, a new tower may not be permitted if it is determined that the proposed location of the tower is not essential to the applicant to provide service in a given geographical area, and the tower would:
  - (a) interfere with or endanger the use of other telecommunication facilities; or
  - (b) endanger persons or property; or
  - (c) not be compatible with existing or proposed adjacent development; or
  - (d) have an impermissible environmental, visual, or aesthetic impact on the surrounding area.
- (3) Written requests by certified mail to co-locate on an existing or proposed tower shall be answered by the tower owner within thirty days of receipt of the request. Denial of a request without substantial documentary evidence as required herein demonstrating why co-location would not be possible or failure to respond to a request shall be a violation of the Zoning Ordinance.

73.20.17 Building Permits for Towers

Each application for a building permit for a tower, other than an amateur or accessory radio service tower, or for a structure accessory to such a tower shall contain the following information as appropriate:

- (1) A site plan drawn to scale and identifying the tower lot boundary and the tower site boundary, if different, and all required setbacks; location, type and height of tower(s); guy anchors; location, use and dimensions of existing and proposed structures; vehicular parking and access; existing vegetation to be retained; topography of the site; fences; adjacent

land uses and current zoning.

- (2) A copy of the subdivision plat, deed, and/or memorandum of lease for the tower site; provided however, the Building Inspector may require a copy of the lease agreement if necessary to verify compliance with this ordinance.
- (3) A plan drawn to scale showing proposed landscaping, if required, including species type, size, and spacing.
- (4) A report from a registered professional engineer indicating tower height and design, structure, installation, and total number and types of antennas that could be accommodated.
- (5) A notarized letter signed by both the owner and a registered professional engineer stating that the tower complies with all EIA/TIA-222-E Standards, as amended.
- (6) A signed affidavit from the applicant verifying the inability to locate the proposed antennas on existing towers or other structures accompanied by supporting documentation as specified in Section 73.20.16 - Co-Location.
- (7) A letter of intent stating whether the applicant intends to lease space on the tower to other potential users at reasonable rates and on reasonable terms. The letter shall commit the tower owner and successors in interest to:
  - (a) Negotiate in good faith for shared use by third parties.
  - (b) Allow shared use if an applicant agrees in writing to pay reasonable rental charges or other consideration.
  - (c) Make no more than a reasonable charge for shared use based on generally accepted industry standards and impose no terms or conditions that would render co-location impractical.

- (8) Documentation demonstrating that the proposed site is required to serve the company's planned network or coverage in the city.
- (9) A notarized statement signed by the applicant that the tower facility will conform with applicable FCC standards for radio frequency emissions and copies of any federally required studies or measurements of radio frequency emissions.
- (10) If federal regulations require an Environmental Assessment, then a copy of the EA shall be submitted as part of the application.
- (11) Documentation demonstrating the amount of liability insurance to be carried by the owner on the proposed tower.
- (12) The FCC assigned frequency for the licensed service, and a copy of all permits, approvals, or licenses issued by the FCC or the FAA in connection with the proposed tower.
- (13) The Building Inspector shall act upon any application for authorization to place, construct or modify any personal wireless service facility within a reasonable period of time after the application and all required supporting documentation is duly filed, taking into account the nature and scope of such application.

A decision by the Building Inspector to grant or deny an application to place, construct, or modify any personal wireless service facility shall be in writing and supported by substantial evidence contained in the record.

Section 5. Amend ARTICLE 74 - NON-CONFORMING LOTS; NON-CONFORMING USES OF LAND; NON-CONFORMING STRUCTURES; AND NON-CONFORMING USES OF STRUCTURES AND PREMISES, by adding new Section 74.8 - Telecommunications Towers Inventory to read as follows:

74.8 - Telecommunications Towers Inventory

The owner of each telecommunications tower erected within the Huntsville, Alabama, corporate limits prior to adoption of this amendment to the Zoning Ordinance shall submit the following information to the City of Huntsville Building Inspector within six months of the date of adoption of this amendment. Failure to comply with this inventory shall be a violation of the Zoning Ordinance.

- 74.8.1 Name, address and telephone number of tower owner.
- 74.8.2 Location of the tower by street address and legal description.
- 74.8.3 Date of construction of tower.
- 74.8.4 Height of tower from natural grade to the highest point whether of the tower or of an antenna, and the elevation of each existing antenna or array of antennas.
- 74.8.5 Names of all users having co-located antennas on the tower.
- 74.8.6 Copies of all federal approvals, permits and licenses for the tower.
- 74.8.7 Approval dates for any variances or special exceptions granted for the tower or its accessory structure.

Section 6. Amend ARTICLE 92 - BOARD OF ADJUSTMENT, Section 92.5.3 - Permitted Uses as Special Exceptions, by amending Subsection (9) to read as follows:

- (9) Towers intended to support personal wireless service antennas in any residential district; approval shall be subject to the conditions contained in Sections 73.20.4 - Lighting, 73.20.5 - Tower Color, 73.20.6 - Site Security, 73.20.8 - Structural Design of Towers, 73.20.9 - Signs, 73.20.10 - Access, 73.20.11 - Landscaping, 73.20.16 - Co-Location, and 73.20.17 - Building Permits for Towers of this ordinance, and to the following conditions:
  - (a) Towers must be monopoles and must be designed to implode under stress; antennas used must be of the least visually obtrusive design available at the time of application.

- (b) A signed affidavit from the applicant verifying the inability to locate the proposed antennas on existing towers or other structures accompanied by supporting documentation as specified in Section 73.20.16 - Co-Location, and including substantial evidence that the tower cannot, by technical necessity, feasibly be located in a non-residential district.
- (c) Any new tower permitted must be designed to accommodate personal wireless service antennas for at least one additional user for a reasonable fee if technically feasible.
- (d) Accessory facilities shall be fully automated and shall not include offices, vehicle storage, outdoor storage, or broadcast studios.
- (e) Tower heights shall not exceed one hundred (100) feet.
- (f) Setbacks for towers shall be at least fifty feet (50') from all lot lines, and setbacks for accessory structures shall be a minimum of twenty (20) feet from all lot lines or as required for primary structures in the district if greater.
- (g) Towers shall not be permitted within the boundaries of any historic district listed on the National Register nor shall towers be located on the same lot with a residential structure.
- (h) Accessory buildings and security fences or walls shall be constructed so as to be compatible with the surrounding residential neighborhood by virtue of their design, materials, textures, and colors.
- (i) New towers permitted on mountain tops or slopes should be clustered with existing towers, if any, to the extent that such location is technically feasible and safe as well as aesthetically, environmentally and visually compatible.
- (j) The Board of Adjustment shall act upon any application for authorization to place,



construct or modify any personal wireless service facility, whether for a special exception or a variance, within a reasonable period of time after the application and all required supporting documentation is duly filed, taking into account the nature and scope of such application.

Any decision by the Board of Adjustment to grant or deny an application to place, construct, or modify any personal wireless service facility, whether for a special exception or a variance, shall be in writing and supported by substantial evidence contained in the record.

*and adding new Subsections (20) and (21) to read as follows:*

- (20) AM radio broadcast towers, towers for mobile or fixed point radio antennas, and any other telecommunications towers not otherwise covered by Section 73.20.1 - Applicability that will not be designed, constructed, and available to accommodate multiple users for a proposed location in any non-residential district. Approval shall be subject to:
  - (a) Submittal of scaled site plans and other supporting drawings and documents sufficient to demonstrate compliance with the provisions of Section 73.20 hereof.
  - (b) Written documentation by the applicant demonstrating why installation of a single user tower would better serve the goals of the Zoning Ordinance than would a tower designed to accommodate multiple users.
  - (c) The Board of Adjustment shall act upon any application for authorization to place, construct or modify any personal wireless service facility, whether for a special exception or a variance, within a reasonable period of time after the application and all required supporting documentation is duly filed, taking into account the nature and scope of such application.

Any decision by the Board of Adjustment to grant or deny an application to place, construct, or modify any personal wireless

service facility, whether for a special exception or a variance, shall be in writing and supported by substantial evidence contained in the record.

(21) Broadcast towers supporting one or more UHF or VHF television or FM radio broadcast or other similar broadcast antenna in any district; approval shall be subject to the provisions of Sections 73.20.6 - Security, 73.20.8 - Structural Design, 73.20.9 - Signs, 73.20.10 - Access, 73.20.11 - Landscaping, 73.20.16 - Co-Location, and 73.20.17 Building Permits of this ordinance and to the following conditions:

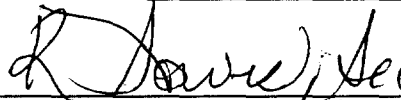
- (a) Because it is the intent of this ordinance to minimize the number of towers and their visual impact on the city, any new television tower that is permitted shall be capable of supporting at a minimum two UHF antennas and one FM antenna in addition to other radio service antennas and microwave dishes.
- (b) If a new tower is approved for a currently operating television licensee, then the existing tower must be removed and any antennas on the existing tower transferred to the newly permitted tower or to other existing towers. There should never be more television towers in the city than there are television licensees, and it is the intent of this ordinance that the number of television towers should decrease over time as licensees co-locate on new towers.
- (c) Setbacks for broadcast towers shall be the greater of 25% of tower height (including antennas) or the longest distance between the perimeter of the tower base and a guy anchor plus a fifteen-foot (15') setback from any lot line for each guy anchor.
- (d) Broadcast towers must be located so that in the event of tower or structure failure, the tower cannot strike another tower or tower support structure.
- (e) Applications to locate broadcast towers in residential districts must contain written documentation demonstrating why it is essential for the tower to be so located

accompanied by evidence that the tower cannot be located in a non-residential district.

- (f) Tower lighting shall be the minimum required to comply with federal regulations, and tower height shall be the minimum necessary to serve the licensed area.

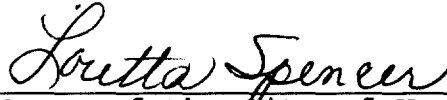
Section 7. These amendments to the Zoning Ordinance of the City of Huntsville, Alabama, shall take effect from and after the date of their publication.

ADOPTED this the 23rd day of January, 1997



President of the City Council of  
the City of Huntsville, Alabama

APPROVED this the 23rd day of January, 1997



Mayor of the City of Huntsville,  
Alabama

(CHARLES E. HAGOOD)

96-1008

JANUARY 23RD 1997  
Charles E. Hagood